IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 6427 of 2004

Suraksha Rakshak and Gen Kamgar Sena ....Petitioners

vs

Nashik Dist. Security Guards Board and ors ..Respondents

Ms Ranjana Todankar for S S Pakale for petitioner

Ms Lata Desai for respondent no.l
Ms A.R.S.Baxi for respondent no. 2
Mr Gokhale for respondent no.3

CORAM:A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated l9.l0.2004

P.C:

Rule.

l. Respondents waive service. By consent, rule is made returnable forthwith.

2. The petitioner is a trade union registered under the Trade Unions Act, l926. The security guards concerned in the petition are the members of the petitioner union. The security guards are employed for watch and ward duty in the establishment of respondent. no. 2 MSEB through respondent no. 3 security guards agency. The respondent no. l is the Board constituted under

the provisions of Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, l98l, hereafter referred to as "the Act". Clause 25(2) of the Security Guards Scheme framed under the said Act provides that a principal employer shall not employ security guards other than the security guards who have been allotted to him by the Board. The grievance of the union is that in violation of the provisions of the Act and the Scheme, respondent no. 2 has been engaging security guards through respondent no. 3 agency. In this petition the petitioner union is seeking a direction to the respondent no.2 to get itself registered with the respondent no. l Board and employ security guards allotted by the Board.

3. We have heard the learned counsel for the parties. Ms Baxi, learned counsel appearing for the respondent no.3 submitted that the respondent no.2 has no intention to engage guards through the security guard agency but the respondent no. 2 has decided to engage the services of ex-servicemen from Maharashtra Ex-Servicemen Corporation as per Government Resolution No MSM/l099/2390/PK 244/99/28 dated l4.ll.2002 for security duties at Board’s installation. She took us through the G.R. dated

l8.l.2002. Under the said G.R. State Government has constituted Maharashtra Ex-Servicemen Corporation. One of the main objectives of the Corporation is to provide employment to the ex-servicemen in the Government, Semi-Government, Public Undertaking and Corporations for security of the establishments. Para 5 of the said G.R which is material for the purpose of this petition on translation reads thus:

> "Moreover, after establishing the said Corporation, the Government has also taken an in-principle decision that an action to exempt the said Corporation from the provisions of the Security Guard (Condition of Service and Welfare) Act, l98l as per section 23A of the said Act, should be taken by Industry, Energy and Labour Department. Similarly, a decision has also been taken that an approval should be obtained from the Director-General Rehabilitation Defence Ministry, New Delhi, through the said Corporation to run Security Contract and that as per their rules

and instruction an agreement should be made with various governent/semi government and private institutions in the state and security personnel required by them should be provided to them".

4 In view of the provisions of clause 23(a) of the Scheme the respondent no. 2 will have to apply for exemption from the State Government for the ex-servicemen whom the respondent no. 2 intends to engage for the purpose of security. Ms Baxi states that the respondent no.2 will not engage security guards allotted by the Board till exemption is granted by the State Government in respect of the ex-servicemen in terms of the G.R dated l8.l.2002. We are informed that the security guards listed at Exh A have been duly registered with the Board. It appears that the wages and levy of the guards has been paid by the agency till l2.l0.2004. Thereafter the wages and levy shall be payable by MSEB and the same will be deposited with Board for disbursement. It is needless to say that in case the exemption is granted by the State Government the security guards posted at respondent no.2 establishment shall be withdrawn by the Board and

they shall be provided employment in any other establishment in accordance with the scheme.

5. Writ Petition is accordingly disposed of.